

**IN THE UNITED STATES DISTRICT  
COURT FOR THE EASTERN  
DISTRICT OF TEXAS SHERMAN  
DIVISION**

**RYAN KAISER, on behalf of himself and  
others similarly-situated,**

*Plaintiff,*

v.

**REVIVAL HOME HEALTHCARE  
SERVICES, INC. and SYLVESTER C.  
UDEZE,**

*Defendants.*

**CIVIL ACTION NO. 4:18-CV-341**

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**MOTION TO WITHDRAW ADMISSIONS**

TO THE HONORABLE JUDGE OF SAID COURT:

**COMES NOW REVIVAL HOME HEALTCARE SERVICES, INC and  
SYLVESTER C. UDEZE,** who moves the court for an order permitting withdrawal of admissions deemed as a result of certain requests for admissions and for permission to file a response to those requests. In support of this motion, Defendants show the following:

I.

Defendants did not understand the due date of said discovery responses and certainly did not understand that if they missed the response date for the Request For Admissions, that they would be deemed admitted against their interest. Defendant's failure to timely respond was not intentional, or the result of conscious indifference, but was an accident or mistake.

II.

The apparent failure to respond to discovery was not intentional or the result of conscious indifference to the obligation to respond but was an accident or mistake. Defendants did not

understand the importance of said documents and their failure to timely respond was an accident or mistake.

III.

Attached are true and correct copies of Defendant's Response to Admissions.

IV.

There is ample opportunity to conduct such other discovery as necessary to present the merits of this case. The presentation of the merits of this action will be served by permitting Defendants to withdraw the deemed admissions and substitute the responses attached as Exhibit "A". Defendants will show that there is a good faith dispute as to the truth of the several matters made the subject of the deemed admissions and that for justice to be done, these issues should be determined by the preponderance of credible evidence.

WHEREFORE, Defendants request that the Court, after hearing this motion, order the withdrawal of the admissions as set out above, order that the responses on attached Exhibit "A" be considered as Defendant's responses to Plaintiff's Request for Admissions. Defendants pray for such other and further relief as to which Defendants may be justly entitled.

Respectfully submitted,

/S/ MICHAEL R. CRAMER  
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Attorney for Defendants

**CERTIFICATE OF CONFERENCE**

I hereby certify that prior to filing the foregoing motion, on November 15, 2018, the undersigned contacted counsel for Plaintiff, to see if an agreement could be reached regarding this motion. No such agreement could be reached and it is necessary for the Court to hear and rule upon the motion.

/S/ MICHAEL R. CRAMER  
Michael R. Cramer

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing has been forwarded to all counsel of record pursuant Texas Rules of Civil Procedure on this the 15<sup>th</sup> day of November, 2018.

/S/ MICHAEL R. CRAMER  
Michael R. Cramer